

Hon Paul Goldsmith
Minister of Justice
Cabinet Legislation Committee 10 April 2025

Purpose

1. This aide memoire provides information about the Government's response to the Petition by Bob McCoskrie which is being considered at Cabinet Legislation Committee on 10 April. The paper is taken by Hon Nicola Grigg, Minister for Women.

The response states that defining 'woman' in legislation and policies is not a priority

2. The Petition requests that the House of Representatives define 'woman' as 'an adult human female' in all laws, public policies and regulations. The petitioner's concern is that 'the shift away from sex-based rights grounded in biological realities has profound implications for the rights of biological women, particularly in contexts such as women's sports and women-only spaces'.
3. The proposed Government response acknowledges the petitioner's concerns but states that defining 'woman' is not a Government priority. It states that the proposed change would not have the impact desired by the petitioner, would be resource intensive and that the Law Commission is currently reviewing the protections in the Human Rights Act 1993 (HRA) for people who are transgender, people who are non-binary, and people with variations of sex characteristics.

The issues raised should be considered as part of the response to the Law Commission's upcoming report

4. The Ministry worked closely with the Ministry for Women on the response and agrees with the approach.
5. The Law Commission's review of the protections in the HRA for people who are transgender, people who are non-binary and people with variations of sex characteristics is due in mid-2025.
6. The HRA protects against discrimination based on 'sex'. It also includes a number of exceptions, where differentiation based on 'sex' is allowed. The protection against 'sex' discrimination has been interpreted as including discrimination based on gender as well and Cabinet noted this position in its February 2025 response to another petition (CAB-25-MIN-0040 refers). The proposed response to the McCoskrie petition aligns with this response. Defining woman, as requested by the petitioner, would not alter the discrimination provisions in the HRA.
7. You will soon receive the Law Commission's report. The report will consider whether the law should more clearly protect people from discrimination based on gender, for example, when accessing employment, housing and services. It will also consider issues raised by the petitioner, such as around transgender persons and single-sex spaces and sports. We agree that these issues should be considered as part of the government response to the Law Commission's report.